

By Representative Peadar

1 A bill to be entitled
2 An act relating to the Public Counsel; amending
3 s. 408.40, F.S.; providing additional duties
4 and responsibilities of the Public Counsel
5 relating to elderly residents; creating s.
6 624.35, F.S.; providing duties and
7 responsibilities of the Public Counsel relating
8 to elderly residents under certain
9 circumstances; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Paragraph (f) is added to subsection (2) of
14 section 408.40, Florida Statutes, to read:

15 408.40 Public Counsel.--

16 (1) Notwithstanding any other provisions of this
17 chapter, the Public Counsel shall represent the public in any
18 proceeding before the agency or its advisory panels in any
19 administrative hearing conducted pursuant to chapter 120 or
20 before any other state and federal agencies and courts in any
21 issue before the agency, any court, or any agency. With
22 respect to any such proceeding, the Public Counsel is subject
23 to the provisions of and may use the powers granted to him or
24 her by ss. 350.061-350.0614.

25 (2) The Public Counsel shall:

26 (a) Recommend to the agency, by petition, the
27 commencement of any proceeding or action or to appear, in the
28 name of the state or its citizens, in any proceeding or action
29 before the agency and urge therein any position that he or she
30 deems to be in the public interest, whether consistent or
31 inconsistent with positions previously adopted by the agency,

1 and use therein all forms of discovery available to attorneys
2 in civil actions generally, subject to protective orders of
3 the agency, which shall be reviewable by summary procedure in
4 the circuit courts of this state.

5 (b) Have access to and use of all files, records, and
6 data of the agency available to any other attorney
7 representing parties in a proceeding before the agency.

8 (c) In any proceeding in which he or she has
9 participated as a party, seek review of any determination,
10 finding, or order of the agency, or of any administrative law
11 judge, or any hearing officer or hearing examiner designated
12 by the agency, in the name of the state or its citizens.

13 (d) Prepare and issue reports, recommendations, and
14 proposed orders to the agency, the Governor, and the
15 Legislature on any matter or subject within the jurisdiction
16 of the agency, and to make such recommendations as he or she
17 deems appropriate for legislation relative to agency
18 procedures, rules, jurisdiction, personnel, and functions.

19 (e) Appear before other state agencies, federal
20 agencies, and state and federal courts in connection with
21 matters under the jurisdiction of the agency, in the name of
22 the state or its citizens.

23 (f) The duties and responsibilities of the Public
24 Counsel under this subsection shall also apply to and include
25 representation and advocacy of elderly residents of this state
26 in any proceeding or action before the agency or with respect
27 to matters under the jurisdiction of the agency.

28 Section 2. Section 624.35, Florida Statutes, is
29 created to read:

30 624.35 Public Counsel; elder affairs.--
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1 (1) Notwithstanding any other provision of this code,
2 the Public Counsel shall represent elderly residents of this
3 state in any proceeding before the department in any
4 administrative hearing conducted pursuant to chapter 120 or
5 before any other state or federal agencies and courts in any
6 issue before the department, any court, or any agency which
7 affect elderly residents of this state. With respect to any
8 such proceeding, the Public Counsel is subject to the
9 provisions of and may use the powers granted to him or her by
10 ss. 350.061-350.0614.

11 (2) The Public Counsel shall:

12 (a) Recommend to the department, by petition, the
13 commencement of any proceeding or action or to appear, in the
14 name of the state or its elderly citizens, in any proceeding
15 or action before the department applicable to elderly
16 residents of this state, and urge therein any position that he
17 or she deems to be in the interest of elderly residents of
18 this state, whether consistent or inconsistent with positions
19 previously adopted by the department, and use therein all
20 forms of discovery available to attorneys in civil actions
21 generally, subject to protective orders of the department,
22 which shall be reviewable by summary procedure in the circuit
23 courts of this state.

24 (b) Have access to and use of all files, records, and
25 data of the department available to any other attorney
26 representing elderly residents of this state in a proceeding
27 before the department.

28 (c) In any proceeding in which he or she has
29 participated as a party, seek review of any determination,
30 finding, or order of the department, or of any administrative
31 law judge, or any hearing officer or hearing examiner

1 designated by the department, in the name of the state or its
2 elderly citizens.

3 (d) Prepare and issue reports, recommendations, and
4 proposed orders to the department, the Governor, and the
5 Legislature on any matter or subject within the jurisdiction
6 of the department applicable to elderly residents of this
7 state, and to make such recommendations as he or she deems
8 appropriate for legislation relative to department procedures,
9 rules, jurisdiction, personnel, and functions.

10 (e) Appear before other state agencies, federal
11 agencies, and state and federal courts in connection with
12 matters under the jurisdiction of the department applicable to
13 elderly residents of this state, in the name of the state or
14 its elderly citizens.

15 Section 3. This act shall take effect upon becoming a
16 law.

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19 HOUSE SUMMARY

20 Provides duties and responsibilities of the Public
21 Counsel with respect to elderly residents of this state
22 relating to proceedings or actions before, or matters
23 under the jurisdiction of, the Agency for Health Care
24 Administration and the Department of Insurance.
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